

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

Donald Dean Simonds, Jr.,)	
)	
Petitioner,)	Case No. 8:15-cv-3254-PMD-JDA
)	
v.)	
)	ORDER
M. Travis Bragg, Warden,)	
)	
Respondent.)	
_____)	

This matter comes before the Court on Petitioner Donald Dean Simonds, Jr.’s objections to United States Magistrate Judge Jacquelyn D. Austin’s report and recommendation (“R & R”) (ECF Nos. 19 & 21). The Magistrate Judge recommends granting Respondent’s summary judgment motion (ECF No. 12) and dismissing Petitioner’s petition for relief under 28 U.S.C. § 2241 (ECF No. 1). For the reasons stated herein, the Court overrules Petitioner’s objections and enters relief as recommended in the R & R.

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The R & R has no presumptive weight, and the responsibility for making a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). Parties may make written objections to the R & R within fourteen days after being served with a copy of it. 28 U.S.C. § 636(b)(1). This Court must conduct a de novo review of any portion of the R & R to which a timely, specific objection is made, and the Court may accept, reject, or modify the Magistrate Judge’s findings and recommendations in whole or in part. *Id.* Additionally, the Court may receive more evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* A party’s failure to object is taken as the party’s agreement with the Magistrate Judge’s conclusions. *See Thomas*

v. Arn, 474 U.S. 140 (1985). Absent a timely, specific objection—or as to those portions of the R & R to which no specific objection is made—this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

DISCUSSION

Petitioner challenges the computation of his federal prison sentence, but the Magistrate Judge has found no impropriety. In his objections, Petitioner continues to contend the computation is unfair. Such protests are not proper objections. *See, e.g., Anderson v. Dobson*, 627 F. Supp. 2d 619, 623 (W.D.N.C. 2007) (“An ‘objection’ that . . . simply summarizes what has been presented before[] is not an ‘objection’ as that term is used in this context.” (citation and quotation marks omitted)). Petitioner’s sole cognizable objection is to the Magistrate Judge’s statement that the Missouri Department of Corrections made its parole determination on January 30, 2012. According to Petitioner, that determination was made sometime in June 2011. The Court fails to see how this date dispute is material to the issues at hand. Accordingly, the Court need not address it. *Cf. Kendley v. Univ. of S.C.*, No. 3:09-cv-786-CMC-PJG, 2009 WL 5194997, at *1 (D.S.C. Dec. 22, 2009) (adopting report and recommendation without considering objections that were not relevant to magistrate’s recommendation to dismiss for lack of jurisdiction).

There being no other objections, the Court has reviewed the remainder of the R & R for clear error. After review, the Court finds that the R & R accurately states the facts and the applicable law. The Court therefore adopts the R & R and grants Respondent’s summary judgment motion.

Finally, Petitioner asks this Court to issue a certificate of appealability. The Court need not do so; Petitioner does not need one to appeal. *See Drax v. Reno*, 338 F.3d 98, 106 n.12 (2d Cir. 2003).

CONCLUSION

For the foregoing reasons, the Court **OVERRULES** Petitioner's objections to the R & R and **ADOPTS** the R & R. It is therefore **ORDERED** that Respondent's motion for summary judgment is **GRANTED** and that Petitioner's § 2241 petition is **DISMISSED** with prejudice.

AND IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

June 27, 2016
Charleston, South Carolina